IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE
AND
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No. 17274 of 2004

Between:

G.Rajani Kumari D/o.G.Nagabhushanam
Advocate, High Court, Advocate's Bar Association,
Hyderabad. ..... PETITIONER

AND

1 Union of India, rep. by Secretary, Ministry for Law and Justice, Central Government , New Delhi.
2 The Chief Election Commissioner, New Delhi.
3 The Chief Electoral Officer, office of the State Election Commission, Secretariat, Hyderabad A.P.
4 Sri E.Sridhar, Addl.Commissioner (Works), Municipal Corporation of Hyderabad-Cum- Returning Officer, Aisf Nagar Assembly Constituency at MCH Circle Office, Khairtabad, Hyderabad.
5 Danam Nagendra, R/o Khairatabad, Hyderabad.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order, direction or a writ more particularly in the nature of writ of Mandamus by declaring the Respondent No.5 as a person not having sound mind and hence declare the action of Respondent Nos.3 and 4 in entertaining and accepting the nomination papers filed by Respondent No.5 as a candidate for the bye election for the Asifnagar Assembly Constituency in Hyderabad as arbitrary, illegal, unconstitutional, unjust, undemocratic, violation of Article 14, 191 (b) and 188 of the Constitution of India and consequently to direct the respondents 3

and 4 not to entertain and accept the nomination papers of Respondent No.5 to be a candidate for the bye election for the Asifnagar Assembly Constituency to be held on 13-10-2004 as the Respondent No.5 is found to be a person not having sound mind.

Counsel for the Petitioner : Mr.KRISHNA DEVAN
Counsel for Respondent No.1: Mr.ARAJASHEKAR REDDY, S.C. FOR CENTRAL GOVERNMENT.
Counsel for Respondents 2&3: Mr.C.P.SARATHY, Senior Counsel for Smt.JAYASREE SARATHY

Counsel for Respondent No.5 : None appeared.

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

Once election process having been commenced by issuance of notification publishing the schedule of submission of nomination papers, withdrawal etc. with respect of the by-election for Asifnagar Assembly Constituency, we are not inclined to entertain this petition said to have been filed in public interest by an Advocate questioning the action of the Returning Officer of Asifnagar Constituency in entertaining the nomination papers of fifth respondent as a candidate for by-election for Asifnagar Legislative Assembly Constituency, which is scheduled to be held on 13-10-2004. There is a remedy available in case it is wrong acceptance of nomination to challenge the election by preferring election petition.

The writ petition is dismissed. No costs.

_____

DEVINDER GUPTA, C.J.

24th September 2004.

_____

C.V.RAMULU, J.

ARS

Note: C.C. by 27-9-2004.
(BO)

To

1 The Secretary, Union of India, Ministry for Law and Justice, Central Government , New Delhi.
2 The Chief Election Commissioner, New Delhi.
3 The Chief Electoral Officer, office of the State Election Commission, Secretariat, Hyderabad A.P.
4 Mr.E.Sridhar, Addl.Commissioner (Works), Municipal Corporation of Hyderabad-Cum- Returning Officer, Aisf Nagar Assembly Constituency at MCH Circle Office, Khairtabad, Hyderabad.
5 Two C.D. copies.